

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE LITIGATION

)
)
) MDL NO. 1456

) Civil Action No. 01-12257-PBS
) Sub-Docket No. 03-10643-PBS
)

THIS DOCUMENT RELATES TO:

)
) Judge Patti B. Saris

The City of New York v. Abbott Laboratories, Inc., et al.)
(S.D.N.Y. No. 04-CV-06054)

County of Albany v. Abbott Laboratories, Inc., et al.)
(N.D.N.Y. No. 05-CV-00425)

County of Allegany v. Abbott Laboratories, Inc., et al.)
(W.D.N.Y. No. 05-CV-06231)

County of Broome v. Abbott Laboratories, Inc., et al.)
(N.D.N.Y. No. 05-CV-00456)

County of Cattaraugus v. Abbott Laboratories, Inc., et al.)
(W.D.N.Y. No. 05-CV-06242)

County of Cayuga v. Abbott Laboratories, Inc., et al.)
(N.D.N.Y. No. 05-CV-00423)

County of Chautauqua v. Abbott Laboratories, Inc., et al.)
(W.D.N.Y. No. 05-CV-06204)

County of Chemung v. Abbott Laboratories, Inc., et al.)
(W.D.N.Y. No. 05-CV-06744)

County of Chenango v. Abbott Laboratories, Inc., et al.)
(N.D.N.Y. No. 05-CV-00354)

County of Columbia v. Abbott Laboratories, Inc., et al.)
(N.D.N.Y. No. 05-CV-00867)

[Caption Continues on Next Page]

**STIPULATION REGARDING THE NEW YORK EPIC PROGRAM'S
RECEIPT OF AMP DATA FROM TAP PHARMACEUTICAL PRODUCTS INC.**

County of Cortland v. Abbott Laboratories, Inc., et al.
(N.D.N.Y. No. 05-CV-00881)

County of Dutchess v. Abbott Laboratories, Inc., et al.
(S.D.N.Y. No. 05-CV-06458)

County of Essex County v. Abbott Laboratories, Inc., et al.
(N.D.N.Y. No. 05-CV-00878)

County of Fulton v. Abbott Laboratories, Inc., et al.
(N.D.N.Y. No. 05-CV-00519)

County of Genesee v. Abbott Laboratories, Inc., et al.
(W.D.N.Y. No. 05-CV-06206)

County of Greene v. Abbott Laboratories, Inc., et al.
(N.D.N.Y. No. 05-CV-00474)

County of Herkimer v. Abbott Laboratories, Inc., et al.
(N.D.N.Y. No. 05-CV-00415)

County of Jefferson v. Abbott Laboratories, Inc., et al.
(N.D.N.Y. No. 05-CV-00715)

County of Lewis v. Abbott Laboratories, Inc., et al.
(N.D.N.Y. No. 05-CV-00839)

County of Madison v. Abbott Laboratories, Inc., et al.
(N.D.N.Y. No. 05-CV-00714)

County of Monroe v. Abbott Laboratories, Inc., et al.
(W.D.N.Y. No. 05-CV-06148)

County of Nassau v. Abbott Laboratories, Inc., et al.
(E.D.N.Y. No. 04-CV-5126)

County of Niagara v. Abbott Laboratories, Inc., et al.
(W.D.N.Y. No. 05-CV-06296)

County of Oneida v. Abbott Laboratories, Inc., et al.
(N.D.N.Y. No. 05-CV-00489)

County of Onondaga v. Abbott Laboratories, Inc., et al.
(N.D.N.Y. No. 05-CV-00088)

County of Ontario v. Abbott Laboratories, Inc., et al.
(W.D.N.Y. No. 05-CV-06373)

County of Orange v. Abbott Laboratories, Inc., et al.
(S.D.N.Y. No. 07-CV-2777)

County of Orleans v. Abbott Laboratories, Inc., et al.
(W.D.N.Y. No. 05-CV-06371)

County of Putnam v. Abbott Laboratories, Inc., et al.
(S.D.N.Y. No. 05-CV-04740)

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County of Rensselaer v. Abbott Laboratories, Inc., et al.)
(N.D.N.Y. No. 05-CV-00422)

County of Rockland v. Abbott Laboratories, Inc., et al.)
(S.D.N.Y. No. 03-CV-7055)

County of Saratoga v. Abbott Laboratories, Inc., et al.)
(N.D.N.Y. No. 05-CV-00478)

County of Schuyler v. Abbott Laboratories, Inc., et al.)
(W.D.N.Y. No. 05-CV-06387)

County of Seneca v. Abbott Laboratories, Inc., et al.)
(W.D.N.Y. No. 05-CV-06370)

County of St. Lawrence v. Abbott Laboratories, Inc., et al.)
(N.D.N.Y. No. 05-CV-00479)

County of Steuben v. Abbott Laboratories, Inc., et al.)
(W.D.N.Y. No. 05-CV-06223)

County of Suffolk v. Abbott Laboratories, Inc., et al.)
(E.D.N.Y. No. CV-03-229)

County of Tompkins v. Abbott Laboratories, Inc., et al.)
(N.D.N.Y. No. 05-CV-00397)

County of Ulster v. Abbott Laboratories, Inc., et al.)
(N.D.N.Y. No. 06-CV-0123)

County of Warren v. Abbott Laboratories, Inc., et al.)
(N.D.N.Y. No. 05-CV-00468)

County of Washington v. Abbott Laboratories, Inc., et al.)
(N.D.N.Y. No. 05-CV-00408)

County of Wayne v. Abbott Laboratories, Inc., et al.)
(W.D.N.Y. No. 05-CV-06138)

County of Westchester v. Abbott Laboratories, Inc., et al.)
(S.D.N.Y. No. 03-CV-6178)

County of Wyoming v. Abbott Laboratories, Inc., et al.)
(W.D.N.Y. No. 03-CV-6379)

AND)

County of Yates v. Abbott Laboratories, Inc., et al.)
(W.D.N.Y. No. 05-CV-06172)

WHEREAS the City of New York and various counties in the State of New York
(collectively, the “Consolidated New York Counties” or “Plaintiffs”) have brought an action

with the above-styled caption (hereafter referred to as the “*City of New York, et al. v. Abbott Labs., Inc. et al.* (MDL 1456)”);

WHEREAS Defendant TAP Pharmaceutical Products Inc. (“TAP”) has sought discovery relating to the receipt of Average Manufacturer Price (“AMP”) data by the New York EPIC Program for the TAP Prevacid® products at issue in these actions, as listed in Revised Exhibit B to Plaintiffs’ First Amended Consolidated Complaint; and

WHEREAS the New York EPIC Program has stated that producing the requested discovery would be unduly burdensome;

WHEREFORE TAP and Plaintiffs, by their respective attorneys, hereby stipulate and agree, for the purposes of these cases only, as follows:

1. The New York EPIC Program has received Average Manufacturer Prices (“AMPs”) from certain prescription drug manufacturers, including defendants in the case styled *City of New York, et al. v. Abbott Labs., Inc., et al.* (MDL 1456). The EPIC Rebate Agreement instructs manufacturers to certify “that Average Manufacturer Price (AMP), Best Price and Baseline AMP data reported to EPIC are identical to the data reported to the Centers for Medicare and Medicaid Services under Section 1927 of the Federal Social Security Act, if the Manufacturer is required to report such data to the Centers for Medicare and Medicaid Services.”
2. TAP reported AMPs to EPIC, at a minimum, on a quarterly basis from the date of the launch of the drug and throughout the remaining time period at issue in this case for all TAP Prevacid® products at issue in these actions, as listed in Revised Exhibit B to Plaintiffs’ First Amended Consolidated Complaint.
3. TAP reserves the right to establish through affirmative evidence that it reported AMPs to EPIC for drugs and time periods beyond those stipulated by Plaintiffs in paragraph 2 above.
4. This stipulation is solely for the purpose of identifying those NDCs that were provided to EPIC, and it does not constitute an admission by any party that the NDCs identified in Revised Exhibit B to Plaintiffs’ First Amended Consolidated Complaint are properly at issue in this litigation or otherwise properly attributed to the listed defendant manufacturer, or that the appropriate time period for this litigation is 1991 forward.

Respectfully submitted,

City of New York and New York Counties
in MDL 1456 except Nassau and Orange

TAP Pharmaceutical Products Inc.

/s/ Joanne M. Cicala
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Dated: March 31, 2010

CERTIFICATE OF SERVICE

The undersigned certifies that she caused a true and correct copy of the foregoing
STIPULATION REGARDING THE NEW YORK EPIC PROGRAM'S RECEIPT OF AMP
DATA FROM TAP PHARMACEUTICAL PRODUCTS INC. to be served upon all counsel of
record by LexisNexis File & Serve, on this 31st day of March, 2010, for posting and notification
to all parties.

/s/ Tara A. Fumerton

Tara A. Fumerton